

As Introduced

**134th General Assembly
Regular Session
2021-2022**

H. B. No. 490

Representative Holmes

Cosponsors: Representatives Click, Lipps, Miranda



A BILL

To amend sections 4561.01, 4561.021, 4561.05, 1
4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 2
4561.14, 4561.15, 4561.31, 4561.32, 4561.33, 3
4561.34, 4561.341, 4561.35, 4561.36, 4561.37, 4
4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 5
4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 6
4563.07, 4563.08, 4563.09, 4563.10, 4563.11, 7
4563.12, 4563.13, 4563.16, 4563.18, 4563.20, and 8
4563.21; to enact section 4561.40; and to repeal 9
section 4561.30 of the Revised Code to make 10
changes to the laws regarding navigable 11
airspace. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4561.01, 4561.021, 4561.05, 13
4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 4561.15, 14
4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 4561.36, 15
4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 4563.031, 16
4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 4563.09, 17
4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 4563.20, 18
and 4563.21 be amended and section 4561.40 of the Revised Code 19

be enacted to read as follows: 20

Sec. 4561.01. As used in ~~sections 4561.01 to 4561.25 of~~ 21
~~the Revised Code~~ this chapter: 22

(A) "Aviation" means transportation by aircraft; operation 23
of aircraft; the establishment, operation, maintenance, repair, 24
and improvement of airports, landing fields, and other air 25
navigation facilities; and all other activities connected 26
therewith or incidental thereto. 27

(B) "Aircraft" means any ~~contrivance~~ manned device used or 28
~~designed~~ intended for navigation or flight in the air, ~~excepting~~ 29
~~a parachute or other contrivance for such navigation used~~ 30
~~primarily as safety equipment.~~ 31

(C) "Airport" means any location either on land or water 32
which is used for the landing and taking off of aircraft, 33
including heliports and seaplane landing sites. "Airport" does 34
not include a federal navigable waterway or a military airport 35
owned by the United States government. 36

(D) "Landing field" means any location either on land or 37
water of such size and nature as to permit the landing or taking 38
off of aircraft with safety, and used for that purpose but not 39
equipped to provide for the shelter, supply, or care of 40
aircraft. 41

(E) "Air navigation facility" means any facility used, 42
available for use, or designed for use in aid of navigation of 43
aircraft, including airports, landing fields, facilities for the 44
servicing of aircraft or for the comfort and accommodation of 45
air travelers, and any structures, mechanisms, lights, beacons, 46
marks, communicating systems, or other instrumentalities or 47
devices used or useful as an aid to the safe taking off, 48

navigation, and landing of aircraft, or to the safe and 49
efficient operation or maintenance of an airport or landing 50
field, and any combination of such facilities. 51

(F) ~~"Air navigation hazard" means any structure, object of~~ 52
~~natural growth, or use of land, that obstructs the air space~~ 53
~~required for the flight of aircraft in landing or taking off at~~ 54
~~any airport or landing field, or that otherwise is hazardous to~~ 55
~~such landing or taking off."Airport sponsor" means the~~ 56
controlling body of any regional airport authority, port 57
authority, public university or college, county, or municipal 58
corporation, or the owner or private entity that controls a 59
privately owned airport or medical use heliport. 60

(G) ~~"Air navigation," or "navigation of aircraft," or~~ 61
~~"navigate aircraft" means the operation of aircraft in the air~~ 62
~~space airspace over this state.~~ 63

(H) ~~"Airperson"~~ "Air crew" means any individual who, as 64
the person in command, or as pilot, mechanic, or member of the 65
crew, engages in the navigation of aircraft. 66

(I) "Airway" means a route in the ~~air space~~ airspace over 67
and above the lands or waters of this state, ~~designated by the~~ 68
~~Ohio aviation board as a route~~ suitable for the navigation of 69
aircraft. 70

(J) "Person" means any individual, firm, partnership, 71
corporation, company, association, joint stock association, or 72
body politic, and includes any trustee, receiver, assignee, or 73
other similar representative thereof. 74

(K) "Government agency" means a state agency, state 75
institution of higher education, regional port authority, or any 76
other political subdivision of the state, or the federal 77

government or other states. 78

(L) "Navigable airspace" means the airspace at and above 79
the minimum flight altitudes, including the airspace needed for 80
safe takeoff and landing. 81

(M) "Obstruction" means any existing or proposed structure 82
or object of natural growth that exceeds the obstruction 83
standards as found in 14 C.F.R. part 77. 84

(N) "Structure" means any permanent or temporary object, 85
including a building, tower, crane, scaffold, smokestack, batch 86
plant, earth formation, stockpile, transmission line, light 87
pole, flagpole, ship mast, traverse way, and mobile object. 88

(O) "Install, erect, construct, establish, or alter" means 89
undertaking any action that affects the natural environment of 90
the site of a structure or object of natural growth, including 91
clearing of land, excavation, or planting. "Install, erect, 92
construct, establish, or alter" does not include surveying 93
changes necessary for temporary use of the site and use in 94
securing geological data, including making necessary borings to 95
ascertain foundation conditions. 96

(P) "Heliport" means the area of land, water, or a 97
structure that is used or intended to be used for the landing 98
and takeoff of helicopters, including any appurtenant buildings 99
and facilities. 100

(Q) "Vertiport" means the identifiable ground or elevated 101
areas, including the facilities thereon, that are designed to be 102
used for the landing and takeoff of rotorcraft, tilt-rotor 103
aircraft, or other powered lift aircraft. 104

(R) "Spaceport" means any facility in the state at which 105
space vehicles may be landed or launched, including all 106

facilities and support infrastructure related to the launch, 107
landing, and payload processing. 108

Sec. 4561.021. There is hereby created in ~~the division of~~ 109
~~multi-modal planning and programs of~~ the department of 110
transportation the office of aviation. The director of 111
transportation shall appoint the administrator of the office of 112
aviation, ~~who shall serve at the pleasure of the director.~~ The 113
administrator of the office of aviation shall be responsible to 114
the director for the organization, direction, and supervision of 115
the work of the office and the exercise of the powers and the 116
performance of the duties assigned to the office. Subject to 117
Chapter 124. of the Revised Code and civil service regulations, 118
the administrator, with the approval of the director, shall 119
select and appoint the necessary employees. The director also 120
may employ experts for assistance in any specific matter at a 121
reasonable rate of compensation. 122

Sec. 4561.05. The department of transportation shall 123
administer Chapter 4561. of the Revised Code. The department may 124
issue and amend orders, create application forms for permits and 125
certificates issued under this chapter, and adopt, modify, and 126
~~promulgate rescind~~ such rules as it determines necessary to 127
carry out this chapter. 128

~~The department may issue and amend orders, and make,~~ 129
~~promulgate, and amend, reasonable general and special rules and~~ 130
~~procedure, and establish minimum standards.~~ 131

~~The department may establish safety rules governing air~~ 132
~~navigation hazards, and the location, size, use, and equipment~~ 133
~~of airports and landing areas, and rules governing air marking,~~ 134
~~the use of signs or lights designed to be visible from the air,~~ 135
~~and other air navigation facilities.~~ 136

~~All rules and amendments thereto, prescribed by the~~ 137
~~department, shall conform to and coincide with, so far as~~ 138
~~possible, the "Civil Aeronautics Act of 1938," 52 Stat. 973, 49-~~ 139
~~U.S.C. 401, as amended, passed by the congress of the United~~ 140
~~States, and the air commerce regulations issued pursuant~~ 141
~~thereto.~~ 142

All acts of the department authorized under this section 143
shall be carried on in conformity with Chapter 119. of the 144
Revised Code. 145

Sec. 4561.06. (A) The department of transportation shall 146
encourage the development of aviation and the promotion of 147
aviation education and research within this state as, in its 148
judgment, may best serve the public interest. 149

(B) (1) The department may furnish engineering or other 150
technical counsel and services, with or without charge therefor, 151
to any appropriate government agency or private entity desiring 152
such counsel or services in connection with any question or 153
problem concerning the need for, or the location, construction, 154
maintenance, or operation of airports, landing fields, or other 155
air navigation facilities. 156

(2) The department also may furnish engineering or other 157
technical counsel and services to any appropriate government 158
agency or private entity desiring such counsel or services 159
regarding the federal aviation administration's process under 14 160
C.F.R. part 77. Such counsel and services may include the 161
process for petitioning the federal aviation administration for 162
discretionary review of a determination, revision, or extension 163
of a determination and any public notice and comment process 164
available. 165

(C) The department shall be the official representative of 166
this state in all civil actions, matters, or proceedings 167
pertaining to aviation in which this state is a party or has an 168
interest. 169

(D) (1) The department may investigate, and may cooperate 170
with any other appropriate government agency in the 171
investigation of, any accident occurring in this state in 172
connection with aviation. It may issue an order to preserve, 173
protect, or prevent the removal of any aircraft or air 174
navigation facility involved in an accident being so 175
investigated until the investigation is completed. The chief 176
executive officer or any law enforcement officer of this state 177
or any political subdivision in which an accident occurred shall 178
assist the department in enforcing such an order when called 179
upon to do so. 180

(2) The department, in connection with any investigation 181
it is authorized to conduct, or in connection with any matter it 182
is required to consider and determine, may conduct hearings 183
thereon. All such hearings shall be open to the public. The 184
administrator of the office of aviation or those employees of 185
that office or its agents who are designated to conduct such 186
hearings may administer oaths and affirmations and issue 187
subpoenas for and compel the attendance and testimony of 188
witnesses and the production of papers, books, and documents at 189
the hearings. In case of failure to comply with such a subpoena 190
or refusal to testify, the administrator or the employees of the 191
office of aviation or its agents who are designated to conduct 192
the hearings may invoke the aid of the court of common pleas of 193
the county in which the hearing is being conducted, and the 194
court may order the witness to comply with the requirements of 195
the subpoena or to give testimony concerning the matter in 196

question. Failure to obey any order of the court may be punished 197
as a contempt of the court. 198

(3) Reports of any investigations or hearings, or parts 199
thereof, conducted by the department shall not be admitted in 200
evidence or used for any purpose in any action or proceeding 201
arising out of any matter referred to in the investigation, 202
hearings, or report thereof, except in actions or proceedings 203
instituted by the state or by the department on behalf of the 204
state, nor shall any member of the department or any of its 205
employees be required to testify to any facts ascertained in, or 206
information obtained by reason of, the member's or employee's 207
official capacity, or to testify as an expert witness in any 208
action or proceeding involving or pertaining to aviation to 209
which the state is not a party. Subject to this section, the 210
department may make available to appropriate agencies of 211
government any information and material developed in the course 212
of its investigations and hearings. 213

(E) The department shall report to the appropriate agency 214
of the United States all cases that come to its attention of 215
persons navigating aircraft without a valid aviator's 216
certificate, or in which an aircraft is navigated without a 217
valid air-worthiness certificate in probable violation of the 218
laws of the United States requiring such certificates, and it 219
also shall report to the proper governmental agency any probable 220
infringement or violation of laws, rules, and regulations 221
pertaining to aviation that come to its attention. 222

(F) The department may prepare, adopt, and subsequently 223
revise a plan showing the locations and types of airports, 224
landing fields, and other air navigation facilities within this 225
state; ~~it also may prepare another plan of a system of airways-~~ 226

~~within this state, the establishment, maintenance, and use of~~ 227
~~which will, in its judgment, serve the development of~~ 228
~~transportation by aircraft within this state in the best~~ 229
~~interests of the public.~~ It may publish plans and pertinent 230
information as the public interest requires. 231

(G) The department periodically may prepare, publish, and 232
distribute such maps, charts, or other information as the public 233
interest requires, showing the location of and containing a 234
description of all airports, landing fields, and other air 235
navigation facilities then in operation in this state, together 236
with information concerning the manner in which, and the terms 237
upon which, those facilities may be used, and showing all 238
airways then in use, or recommended for use, within this state, 239
together with information concerning the manner in which the 240
facilities should be used. 241

Sec. 4561.08. (A) As used in this section and section 242
4561.09 of the Revised Code: 243

(1) "Airport activities" means the acquisition, 244
establishment, construction, enlargement, improvement, 245
equipment, protection of navigable airspace, or operation of 246
airports, heliports, vertiports, spaceports, landing fields, and 247
other air navigation facilities. 248

(2) "Local authority" means a regional airport authority, 249
port authority, public university or college airport, county, or 250
municipal corporation. 251

(B) The department of transportation may cooperate with 252
any ~~government agency, local authority in the acquisition,~~ 253
~~establishment, construction, enlargement, improvement,~~ 254
~~equipment, or operation of airports, landing fields, and other~~ 255

~~air navigation facilities conducting airport activities~~ in this 256
state, and may comply with the laws of the United States and any 257
regulations made thereunder with respect to the expenditure of 258
federal funds for or in connection with such ~~airports, landing-~~ 259
~~fields, and other air navigation facilities~~activities. 260

The department may accept, receive, and give receipt for 261
federal funds, upon such terms as are prescribed by the laws of 262
the United States and any regulations made thereunder, on behalf 263
of the state, and may treat similarly, for the state or as agent 264
for any ~~regional airport authority, county, or municipal-~~ 265
~~corporation~~ local authority thereof, other funds, public or 266
private, for the ~~acquisition, establishment, construction,~~ 267
~~enlargement, improvement, equipment, or operation of airports,~~ 268
~~landing fields, and other air navigation facilities~~conduct of 269
airport activities, whether such work is to be done ~~severally~~ by 270
the state ~~or by,~~ a political subdivision thereof ~~or by a-~~ 271
~~regional airport authority, or by the state and a regional-~~ 272
~~airport authority or one or more such political subdivisions-~~ 273
~~jointly, or by any two or more such political subdivisions-~~ 274
~~jointly, or by a regional airport authority and any one or more-~~ 275
~~such political or subdivisions jointly~~of the state, a local 276
authority or authorities, or some combination thereof. The 277
department may also act as agent of any ~~regional airport-~~ 278
~~authority, county, or municipal corporation~~ local authority of 279
the state in any other matter connected with the ~~acquisition,~~ 280
~~establishment, construction, enlargement, improvement,~~ 281
~~equipment, or operation of airports, landing fields, and other-~~ 282
~~air navigation facilities~~conduct of airport activities. In the 283
discharge of its duties as such agent, the department may use 284
all its powers in the same manner as when acting for and ~~in-on~~ 285
behalf of the state. 286

(C) The department may approve or disapprove all 287
contracts, grants, and agreements for the ~~acquisition,~~ 288
~~establishment, construction, enlargement, improvement,~~ 289
~~equipment, or operation of airports, landing fields, and other~~ 290
~~air navigation facilities~~ conduct of airport activities insofar 291
as its rules require. 292

(D) The department may advise and cooperate with any 293
regional airport authority or political subdivision of this 294
state or of any other state, when it is acting jointly with a 295
regional airport authority or subdivision of this state, in all 296
matters pertaining to ~~the location, acquisition, establishment,~~ 297
~~construction, enlargement, improvement, equipment, or operation~~ 298
~~of airports, landing fields, and other air navigation~~ 299
~~facilities~~ airport activities. 300

(E) All federal money accepted by the department pursuant 301
to ~~sections 4561.01 to 4561.151 of the Revised Code~~ this chapter 302
shall be deposited in the state treasury to the credit of the 303
highway operating fund. All such moneys shall be expended in 304
accordance with the terms imposed by the United States in making 305
the grants thereof. 306

Sec. 4561.09. Each ~~regional airport authority, county,~~ 307
~~municipal corporation, and agency~~ local authority of this state 308
may accept, receive, and give receipt for federal funds upon 309
such terms as are prescribed by the laws of the United States 310
and any rules and regulations made thereunder, and may treat 311
similarly other funds, public or private, for the ~~acquisition,~~ 312
~~establishment, construction, enlargement, improvement,~~ 313
~~equipment, or operation of airports, landing fields, and other~~ 314
~~air navigation facilities~~ conduct of airport activities. 315

~~The board of trustees of a regional airport authority and~~ 316

~~the legislative body of each county or municipal corporation~~ A 317
local authority may designate the department of transportation 318
as the agent of ~~such regional airport authority, county, or~~ 319
~~municipal corporation~~ the local authority to accept, receive, 320
and give receipt for federal funds upon such terms as are 321
prescribed by the laws of the United States and any rules or 322
regulations made thereunder, and to treat similarly other funds, 323
public or private, for the ~~acquisition, establishment,~~ 324
~~construction, enlargement, improvement, equipment, or operation~~ 325
~~of airports, landing fields, and other air navigation~~ 326
~~facilities~~ conduct of airport activities, whether such work is to 327
be done by the ~~regional airport authority, county, or municipal~~ 328
~~corporation~~ local authority alone, or jointly with the state, or 329
jointly with the state and other counties or municipal 330
corporations. Such ~~board of trustees or legislative body~~ local 331
authority may designate the department as its agent in any other 332
matter connected with the ~~acquisition, establishment,~~ 333
~~construction, enlargement, improvement, equipment, or operation~~ 334
~~of airports, landing fields, and other air navigation~~ 335
~~facilities~~ conduct of airport activities, and may enter into, or 336
authorize the ~~executive department~~ designee of such ~~political~~ 337
~~subdivision~~ local authority to enter into, an agreement with the 338
department prescribing the terms of such agency, in accordance 339
with the laws of the United States and any rules or regulations 340
made thereunder. 341

All contracts and grants for the ~~acquisition,~~ 342
~~establishment, construction, enlargement, improvement,~~ 343
~~equipment, or operation of airports, landing fields, or other~~ 344
~~air navigation facilities~~ airport activities made by a ~~regional~~ 345
~~airport authority, county, municipal corporation,~~ local authority 346
or agency of this state shall be made pursuant to the laws of 347

this state governing the making of such contracts and grants; 348
provided that when the ~~acquisition, establishment, construction,~~ 349
~~enlargement, improvement, equipment, or operation of airports,~~ 350
~~landing fields, or other air navigation facilities is~~ airport 351
activities are financed wholly or partly with federal funds, the 352
~~regional airport authority, county, municipal corporation,~~ local 353
authority or agency of this state may let contracts and receive 354
grants in the manner prescribed by the federal authorities 355
acting under the laws of the United States and any rules or 356
regulations made thereunder. 357

Sec. 4561.11. (A) All publicly and privately owned 358
airports, landing fields, and landing areas, including those 359
located on public waters, shall be inspected and approved by the 360
department of transportation before being used for commercial 361
purposes. The department may issue a certificate of approval in 362
each case. ~~The~~ In accordance with Chapter 119. of the Revised 363
Code, the department shall require that a complete plan of such 364
~~airport, landing field, or landing area~~ establish the documents 365
and information required to be filed with it ~~the department~~ 366
before ~~granting or issuing it~~ will grant or issue such approval; 367
provided that in no case in which the department licenses or 368
certifies for commercial operations an airport, landing field, 369
or landing area constructed, maintained, or supported, in whole 370
or in part, by public funds, under ~~sections 4561.01 to 4561.151~~ 371
~~of the Revised Code~~ this chapter, shall the public be deprived of 372
the use thereof or its facilities for aviation purposes as fully 373
and equally as all other parties. 374

In any case in which the department rejects or disapproves 375
an application to commercially operate an airport, landing 376
field, or landing area, or in any case in which the department 377
issues an order requiring certain things to be done before 378

approval, it shall set forth its reasons therefor and shall 379
state the requirements to be met before such approval will be 380
given or such order modified or changed. In any case in which 381
the department considers it necessary, it may order the closing 382
of any airport, landing field, or landing area for commercial 383
purposes until the requirements of the order made by the 384
department are complied with. 385

Appeal from any action or decision of the department in 386
any such matter shall be made in accordance with sections 119.01 387
to 119.13 of the Revised Code. 388

~~The department shall require that any person engaged~~ 389
~~within this state in operating aircraft, in any form of~~ 390
~~navigation, shall be the holder of a currently effective~~ 391
~~aviator's license issued by the civil aeronautics~~ 392
~~administration.~~ 393

~~The aviator's license required by this section shall be~~ 394
~~kept in the personal possession of the pilot when the pilot is~~ 395
~~operating aircraft within this state, and shall be presented for~~ 396
~~inspection upon the request of any passenger, any authorized~~ 397
~~representative of the department, or any official manager or~~ 398
~~person in charge of any airport, landing field, or area in this~~ 399
~~state upon which the pilot lands.~~ 400

(B) Whoever violates this section shall be fined not more 401
than five hundred dollars, imprisoned not more than ninety days, 402
or both. 403

Sec. 4561.12. (A) Unless operated by the department of 404
transportation or its agents, no aircraft shall be operated ~~or~~ 405
~~maintained~~ on any public land or water owned or controlled by 406
this state, or by any political subdivision of this state, 407

except at such places and under such rules and regulations 408
governing and controlling the operation ~~and maintenance~~ of 409
aircraft as are adopted and ~~promulgated~~ amended by the 410
department in accordance with sections 119.01 to 119.13 of the 411
Revised Code. 412

Such action and approval by the department shall not 413
become effective until it has been approved by the adoption and 414
~~promulgation~~ amendment of appropriate rules governing, 415
controlling, and approving said places and the method of 416
operation ~~and maintenance~~ of aircraft, by the department, 417
division, political subdivision, agent, or agency of this state 418
having ownership or control of the places on said public land or 419
water which are affected by such operation ~~or maintenance~~ of 420
aircraft thereon. 421

(B) Whoever violates this section shall be fined not more 422
than five hundred dollars, imprisoned not more than ninety days, 423
or both. 424

Sec. 4561.14. (A) No person shall ~~operate~~ do any of the 425
following: 426

(1) Operate any civil aircraft in this state unless such 427
the person is the holder of a valid aviator's license pilot 428
certification or authorization issued by the United States. 429

~~No person operating an aircraft within this state shall~~ 430
~~fail~~ or a valid pilot certification or similar document issued 431
or validated by the country in which the aircraft is registered; 432

(2) Fail to exhibit such license the certification or 433
document for inspection upon the demand of any passenger on such 434
aircraft, or ~~fail to exhibit same for inspection~~ upon the demand 435
of any peace officer, member or employee of the department of 436

transportation, or manager or person in charge of an airport or 437
landing field within this state, prior to taking off or upon 438
landing said aircraft. 439

~~No person shall operate;~~ 440

(3) Operate an aircraft within this state unless ~~such the~~ 441
aircraft is licensed and registered by the United States, ~~this~~ 442
~~section is inapplicable.~~ This division does not apply to the 443
operation of military aircraft of the United States, aircraft of 444
a ~~state, territory,~~ or possession of the United States, or 445
aircraft licensed by a foreign country with which the United 446
States has a reciprocal agreement covering the operation of such 447
aircraft. 448

~~No person shall operate~~ (4) Operate an aircraft within 449
this state in violation of any air traffic rules in force under 450
the laws of the United States or under ~~sections 4561.01 to~~ 451
~~4561.14 of the Revised Code~~ this chapter, and the rules and 452
regulations of the department adopted pursuant thereto. 453

(B) Whoever violates this section shall be fined not more 454
than five hundred dollars, imprisoned not more than ninety days, 455
or both. 456

Sec. 4561.15. (A) No person shall commit any of the 457
following acts: 458

(1) Carry passengers in an aircraft unless the person 459
piloting the aircraft is a holder of a valid ~~airperson's air~~ 460
crew certificate of competency issued by the United States that 461
authorizes the holder to carry passengers and the person is 462
carrying any passenger in accordance with the applicable 463
certificate requirements; this division of this section is 464
inapplicable to the operation of military aircraft of the United 465

States, aircraft of a state, territory, or possession of the 466
United States, or aircraft licensed by a foreign country with 467
which the United States has a reciprocal agreement covering the 468
operation of such aircraft; 469

(2) Operate an aircraft on the land or water or in the air 470
space over this state in a careless or reckless manner that 471
endangers any person or property, or with willful or wanton 472
disregard for the rights or safety of others; 473

(3) Operate an aircraft on the land or water or in the air 474
space over this state while under the influence of intoxicating 475
liquor, controlled substances, or other habit-forming drugs; 476

(4) Tamper with, alter, destroy, remove, carry away, or 477
cause to be carried away any object used for the marking of 478
airports, landing fields, or other aeronautical facilities in 479
this state, or in any way change the position or location of 480
such markings, except by the direction of the proper authorities 481
charged with the maintenance and operation of such facilities, 482
or illegally possess any object used for such markings. 483

(B) Jurisdiction over any proceedings charging a violation 484
of this section is limited to courts of record. 485

(C) Whoever violates this section shall be fined not more 486
than five hundred dollars, imprisoned not more than six months, 487
or both. 488

Sec. 4561.31. ~~(A)(1)~~(A) Notwithstanding section 4561.01 of 489
the Revised Code, as used in sections 4561.31 to 4561.40 of the 490
Revised Code, "airport" means any airport issued a commercial 491
operating certificate and a medical use heliport. 492

(B) Except as provided in divisions ~~(D)~~, ~~(E)~~ and (F) of 493
this section, no ~~any person shall commence to~~ that is required 494

~~to file notice with the federal aviation administration under 14~~ 495
~~C.F.R. part 77 before the person may install, erect, construct,~~ 496
~~establish, or alter~~ any structure or object of natural growth in 497
this state, ~~any part of which will penetrate or is reasonably-~~ 498
~~expected to penetrate into or through any airport's clear zone-~~ 499
~~surface, horizontal surface, conical surface, primary surface,~~ 500
~~approach surface, or transitional surface without first-~~ 501
~~obtaining~~ also shall obtain a permit from the department of 502
transportation under section 4561.34 of the Revised Code. ~~The-~~ 503
~~replacement of an existing structure or object of natural growth-~~ 504
~~with, respectively, a structure or object that is not more than-~~ 505
~~ten feet or twenty per cent higher than the height of the-~~ 506
~~existing structure or object, whichever is higher, does not-~~ 507
~~constitute commencing to install a structure or object, except-~~ 508
~~when any part of the structure or object will penetrate or is-~~ 509
~~reasonably expected to penetrate into or through any airport's-~~ 510
~~clear zone surface, horizontal surface, conical surface, primary-~~ 511
~~surface, approach surface, or transitional surface. Such-~~ 512
~~replacement of a like structure or object is not exempt from any-~~ 513
~~other requirements of state or local law.~~ 514

~~(2) No person shall substantially change, as determined by-~~ 515
~~the department, the height or location of any structure or-~~ 516
~~object of natural growth in this state, any part of which, as a-~~ 517
~~result of such change, will penetrate or is reasonably expected-~~ 518
~~to penetrate into or through any airport's clear zone surface,~~ 519
~~horizontal surface, conical surface, primary surface, approach-~~ 520
~~surface, or transitional surface, and for which installation had-~~ 521
~~commenced or which was already installed prior to October 15,-~~ 522
~~1991, without first obtaining a permit from the department under-~~ 523
~~section 4561.34 of the Revised Code. This division does not-~~ 524
~~exempt the structure or object from any other requirements of-~~ 525

~~state or local law.~~ 526

~~(3) No person shall substantially change, as determined by the department, the height or location of any structure or object of natural growth for which a permit was issued pursuant to section 4561.34 of the Revised Code, without first obtaining an amended permit from the department under that section.~~ 527
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~~(B)~~ (C) No person shall install, erect, construct, 532
establish, alter, operate, or maintain any structure or object 533
of natural growth for which a permit has been issued under 534
section 4561.34 of the Revised Code, except in compliance with 535
the permit's terms and conditions and with any rules or orders 536
issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ this 537
chapter. 538

~~(C)~~ (D) The holder of a permit issued under section 539
4561.34 of the Revised Code, ~~with the department's approval,~~ may 540
transfer the permit to another person who agrees to comply with 541
its terms and conditions. The transferor shall notify the 542
department of the transfer not later than sixty days after the 543
transfer. 544

~~(D)~~ (E) A person ~~who receives~~ shall apply for a permit 545
to install, erect, construct, establish, substantially change, 546
or ~~substantially~~ alter a structure or object of natural growth 547
from an airport zoning board ~~on or after October 15, 1991,~~ under 548
Chapter 4563. of the Revised Code when both of the following 549
apply: 550

(1) The airport zoning board exists in the geographical 551
area of the proposed installation, erection, construction, 552
establishment, or alteration of the structure or object of 553
natural growth. 554

(2) The airport zoning board has adopted airport zoning regulations pursuant to section 4563.032 of the Revised Code. 555
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Any person required to apply for a permit from the airport zoning board under this division is not required to apply for a permit from the department under ~~sections 4561.30 to 4561.39 of the Revised Code, provided that the airport zoning board has adopted airport zoning regulations pursuant to section 4563.032 of the Revised Code~~this chapter. 557
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~~(E) (F) Any person who receives~~ required to apply for a certificate from the power siting board pursuant to section 4906.03 or 4906.10 of the Revised Code on or after October 15, 1991, is not required to apply for a permit from the department under ~~sections 4561.30 to 4561.39 of the Revised Code~~this chapter. 563
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~~(F) Any person who, in accordance with 14 C.F.R. 77.11 to 77.19, notified the federal aviation administration prior to June 1, 1991, that the person proposes to construct, establish, substantially change, or substantially alter a structure or object of natural growth is not required to apply for a permit from the department under sections 4561.30 to 4561.39 of the Revised Code in connection with the construction, establishment, substantial change, or substantial alteration of the structure or object of natural growth either as originally proposed to the federal aviation administration or as altered as the person or the federal aviation administration considers necessary, provided that the federal aviation administration, pursuant to 14 C.F.R. Part 77, does not determine that the proposed construction, establishment, substantial change, or substantial alteration of the structure or object of natural growth would be a hazard to air navigation.~~ 569
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(G) (1) Whoever violates division ~~(A) (1) or (2)~~ (B) of this 585
section is guilty of a misdemeanor of the third degree. Each day 586
of violation constitutes a separate offense. 587

(2) Whoever violates division ~~(A) (3) or (B)~~ (C) of this 588
section is guilty of a misdemeanor of the first degree. Each day 589
of violation constitutes a separate offense. 590

Sec. 4561.32. (A) In accordance with Chapter 119. of the 591
Revised Code, the department of transportation shall adopt, and 592
may amend and rescind, any rules necessary to administer 593
sections ~~4561.30~~ 4561.31 to ~~4561.39~~ 4561.40 of the Revised Code 594
~~and shall adopt rules based in whole upon the obstruction-~~ 595
~~standards set forth in 14 C.F.R. 77.21 to 77.29, as amended, to~~ 596
~~uniformly regulate the height and location of structures and~~ 597
~~objects of natural growth in any airport's clear zone surface,~~ 598
~~horizontal surface, conical surface, primary surface, approach~~ 599
~~surface, or transitional surface. The rules shall provide that~~ 600
~~the department, upon a determination that the height and~~ 601
~~location of a structure or object of natural growth, as set~~ 602
~~forth in the permit application, will be an obstruction, may~~ 603
grant a permit under section 4561.34 of the Revised Code that 604
includes a waiver from full compliance with the obstruction 605
standards found in 14 C.F.R. part 77. The rules shall ~~also~~ 606
~~provide that the department shall base its what information~~ 607
~~shall be included in the department's decision on whether to~~ 608
~~grant such a waiver on sound aeronautic principles, as set out~~ 609
~~in F.A.A. technical manuals, as amended, including advisory~~ 610
~~circular 150/5300-13, "airport design standards"; 7400.2c,~~ 611
~~"airspace procedures handbook,"; and the U.S. terminal-~~ 612
~~procedures handbook, including the results of any studies or~~ 613
investigations conducted and any federal aviation administration 614
technical manuals, advisory circulars, airport design standards, 615

airspace procedures, and the U.S. terminal procedures that were 616
consulted. 617

The consideration of safety shall be paramount to 618
considerations of economic or technical factors. In making a 619
determination under this division, the department may consider 620
findings and recommendations of other government entities and 621
interested persons concerning the proposed structure or object 622
of natural growth. However, those findings and recommendations 623
are not binding on the department. 624

(B) The department may conduct any studies or 625
investigations it considers necessary to carry out sections 626
4561.304561.31 to 4561.394561.40 of the Revised Code or may 627
enter into any contract for those services. 628

Sec. 4561.33. (A) An applicant for a permit required by 629
section 4561.31 of the Revised Code shall ~~file with the~~ 630
~~department of transportation an application made on forms the~~ 631
~~department prescribes, which shall contain the following~~ 632
~~information:~~ 633

~~(1) A description of the structure or object of natural~~ 634
~~growth for which the permit is sought, its location, and the~~ 635
~~planned date of commencement of installation;~~ 636

~~(2) A statement explaining the need for the structure or~~ 637
~~object;~~ 638

~~(3) A statement of the reasons why the proposed location~~ 639
~~is best suited for the structure or object;~~ 640

~~(4) Any additional information the applicant considers~~ 641
~~relevant or the department requires.~~ 642

~~An application for an amended permit shall be in the form~~ 643

~~and contain the information the department prescribes.~~ 644

~~In lieu of an application prescribed by the department, an applicant may file a copy of the submit a completed federal aviation administration's administration form 7460-1, "notice of proposed construction or alteration" to the federal aviation administration. Such submission shall serve as the application for the permit required from the department of transportation.~~ 645
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~~(B) An applicant shall file an application not less than thirty days nor more than two years prior to the planned date of commencement of installation or substantial change. This period may be waived by the department for unforeseen emergencies.~~ 651
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~~(C) If the structure or object in the application could have a potential impact on a military installation, as such an impact is described in the airfield land use compatibility study of that military installation, the applicant shall send, within seven days after the filing of his application, a copy of the application to the commander of the installation and the appropriate branch of the United States department of defense.~~ 655
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~~(D) It is not necessary that ownership of, option for, or other possessory right to a specific site be held by the applicant before an application may be filed under this section.~~ 662
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~~(E) (C) If the department has reason to believe that any person has or is commencing to install, erect, construct, establish, or alter a structure or object of natural growth for which a permit appears to be required under section 4561.31 of the Revised Code, but concerning which no application for a permit under section 4561.34 of the Revised Code has been filed or no permit issued, the department shall issue an order to such person to appear before the department and show cause why a~~ 665
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permit need not be obtained.

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Sec. 4561.34. (A) The department of transportation,
subject to Chapter 119. of the Revised Code, shall grant or deny
a permit or grant a permit with waiver from obstruction
standards for which an application has been filed under section
4561.33 of the Revised Code not later than ten business days
after the federal aviation administration issues its final
determination. In determining whether to grant or deny a permit,
the department shall ~~determine whether the height and location~~
~~of a structure or object of natural growth, as set forth in the~~
~~permit application, will be an obstruction to air navigation~~
~~based upon the rules adopted under section 4561.32 of the~~
~~Revised Code if installed as proposed. In the case of an~~
~~application to substantially change an existing structure or~~
~~object, the department shall determine whether the change in the~~
~~height or location of the structure or object, as set forth in~~
~~the application, will create such an obstruction. The~~
~~consideration of safety shall be paramount to considerations of~~
~~economic or technical factors. In making a determination under~~
~~this division the department shall render its decision upon the~~
~~record, but may consider findings and recommendations of other~~
~~governmental entities and interested persons concerning the~~
~~proposed structure or object; however, those findings and~~
~~recommendations are not binding on the department~~conduct its own
study and review of the permit application concurrent with the
federal aviation administration's review and then do the
following:

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(1) If a federal aviation administration form 7460-1 was
filed, but the proposed installation, erection, construction,
establishment, or alteration does not meet the notification
standards under 14 C.F.R. part 77, the department shall issue a

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written statement to the applicant that no permit is required. 704

(2) If the federal aviation administration issues a 705
determination of hazard, the department shall deny the permit. 706

(3) If the federal aviation administration issues a 707
determination of no hazard and the proposed installation, 708
erection, construction, establishment, or alteration will not be 709
an obstruction to the navigable airspace of an airport, the 710
department shall issue a permit. 711

(4) If the federal aviation administration issues a 712
determination of no hazard, but the proposed installation, 713
erection, construction, establishment, or alteration will be an 714
obstruction to the navigable airspace of an airport, the 715
department shall make a determination of whether to grant a 716
permit with waiver from obstruction standards pursuant to 717
section 4561.32 of the Revised Code or to deny the permit. In 718
making that determination, both of the following shall occur: 719

(a) The department shall contact the airport sponsor and 720
request a written decision, on official letterhead, as to the 721
federal aviation administration's determination of no hazard. 722
The decision shall include any proposed conditions or 723
modifications that would allow the obstruction to exist in the 724
navigable airspace of the airport. 725

(b) The airport sponsor shall submit the written decision 726
to the department not later than seven business days after the 727
federal aviation administration's determination. 728

~~(B) The~~ If a permit is denied, the department may grant a 729
~~permit under this section subject to~~ shall indicate any 730
~~modification of~~ to the height or location of ~~a structure or~~
~~object~~ the department considers necessary. In the absence of 731
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~~such modification or unless it grants a waiver from compliance with the obstruction standards, the department shall deny a permit if it determines, in accordance with division (A) of this section, that a proposed structure or object or a change to an existing structure or object, as set forth in the application, would be an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code~~ the proposed installation, erection, construction, establishment, or alteration that would allow the department to issue the permit.

(C) In rendering a decision on an application for a permit, the department shall issue an opinion stating ~~its reasons for the action taken. The department~~ all factors it considered in making its decision, and shall serve upon the applicant and each party, as provided in division (C) of section 4561.33 of the Revised Code, the applicable airport sponsor a copy of its decision regarding a permit and the opinion. The department shall include with the copy of its decision a notice that an appeal of the decision may be made in accordance with Chapter 119. of the Revised Code.

Sec. 4561.341. Pursuant to any consultation with the power siting board regarding an application for certification under section 4906.03 or 4906.10 of the Revised Code, the office of aviation ~~of the division of multi-modal planning and programs~~ of the department of transportation shall review the application to determine whether the facility constitutes or will constitute an obstruction to air navigation based upon the rules adopted under section 4561.32 of the Revised Code. Upon review of the application, if the office determines that the facility constitutes or will constitute an obstruction ~~to air navigation,~~ it shall provide, in writing, this determination and either the terms, conditions, and modifications that are necessary for the

applicant to eliminate the obstruction or a statement that 764
compliance with the obstruction standards may be waived, to the 765
power siting board under section 4906.03 or 4906.10 of the 766
Revised Code, as appropriate. 767

Sec. 4561.35. The department of transportation shall 768
specify all of the following in each permit and each permit with 769
a waiver granted under section 4561.34 of the Revised Code: 770

(A) The terms and conditions regarding the height and 771
location of the structure or object of natural growth that the 772
department considers necessary to ensure the safety of aircraft 773
in landing or taking off at any airport, the safety of persons 774
occupying or using such area, and the security of property, 775
including any modifications to the height or location of the 776
structure or object of natural growth set forth in the permit 777
application. If the department modifies the location of all or 778
part of a proposed structure or object, it shall provide notice 779
of the relocation to the municipal corporation or township and 780
the county to which the structure or object is being relocated, 781
and the persons residing in the area of the relocation, by 782
whatever means the department considers appropriate. 783

(B) The obstruction markers, markings, lighting, or other 784
visual or aural identification, if any, that must be installed 785
on or in the vicinity of the structure or object of natural 786
growth as a condition of the permit. Any such identification 787
shall conform as much as practicable to federal guidelines and 788
standards. ~~As a condition of the permit, the department shall~~ 789
~~require that any required lighting be maintained in operable~~ 790
~~condition.~~ 791

Sec. 4561.36. (A) The department of transportation shall 792
not issue any permit under ~~sections 4561.30 to 4561.39 of the~~ 793

~~Revised Code~~ this chapter that will result in the creation of an 794
obstruction ~~to air navigation~~ based upon the rules adopted under 795
section 4561.32 of the Revised Code, unless the department 796
waives compliance with the obstruction standards included in 797
those rules. 798

(B) ~~Sections 4561.30 to 4561.39 of the Revised Code do~~ 799
This chapter does not authorize the department to restrict the 800
height or location of structures or objects of natural growth 801
under ~~those sections~~ the chapter for any reason other than to 802
ensure the safety of aircraft in landing and taking off at an 803
airport, the safety of persons occupying or using the area, and 804
the security of property. 805

Sec. 4561.37. ~~Sections 4561.30 to 4561.39 of the Revised~~ 806
~~Code~~ (A) (1) This chapter and the rules adopted under it shall 807
not be construed to require the removal or lowering of, or the 808
making of any other change ~~in to,~~ any structure or object of 809
natural growth ~~not conforming to rules or orders of the~~ 810
~~department of transportation under those sections when adopted~~ 811
~~or amended, or otherwise interfere with the continuance of any~~ 812
~~nonconforming use; except that, if ordered by the department,~~ 813
~~the~~ that was in existence prior to October 15, 1991, other than 814
requirements related to marking or lighting such structure or 815
object of natural growth. 816

(2) Division (A) (1) of this section does not apply if the 817
structure or object of natural growth was altered in a way that 818
is contrary to the terms and conditions of the issued permit. 819

(B) A structure or object of natural growth is subject to 820
the laws and rules that are effective as of the issue date of 821
the permit for the structure's or object of natural growth's 822
installation, erection, construction, establishment, or 823

alteration. However, any substantial change to the structure or 824
substantial growth to the object of natural growth is subject to 825
the laws and rules that are effective as of the date the 826
substantial change or growth occurs. 827

(C) The owner of a nonconforming structure or object that 828
is permanently out of service, or is partially dismantled, 829
destroyed, deteriorated, or decayed shall demolish or remove 830
that structure or object, and, if. If any nonconforming use is 831
voluntarily discontinued for two years or more, any future use 832
of the premises shall be in conformity with sections 4561.30 to 833
4561.39 of the Revised Code this chapter. 834

Sec. 4561.38. With respect to any structure or object of 835
natural growth for which a permit is required under section 836
~~4561.34~~ 4561.31 of the Revised Code, rules adopted or orders 837
issued under ~~sections 4561.30 to 4561.39 of the Revised Code~~ 838
this chapter and the terms and conditions of any permit issued 839
under ~~those sections~~ it prevail in the event of a conflict with 840
~~any airport zoning regulation adopted under sections 4563.01 to~~ 841
~~4563.21 of the Revised Code, any local regulation under section~~ 842
4905.65 of the Revised Code, or any zoning regulation otherwise 843
applicable to the structure or object, ~~or the terms or~~ 844
~~conditions of any permit issued under sections 4563.01 to~~ 845
~~4563.21 of the Revised Code after the effective date of this~~ 846
~~section~~ unless the applicable political subdivision has adopted 847
local regulations that are stricter than those prescribed under 848
this chapter. 849

Sec. 4561.39. In addition to any other remedy provided by 850
law, the department of transportation or an airport sponsor may 851
institute in any court of competent jurisdiction an action to 852
prevent, restrain, correct, or abate any alleged violation or 853

threatened violation of ~~sections 4561.30 to 4561.39 of the~~ 854
~~Revised Code~~ this chapter or any rule adopted or order issued 855
under ~~them~~ it. The court may grant such relief as may be 856
necessary. 857

Sec. 4561.40. The department of transportation and the 858
office of aviation are not liable for any damages caused by a 859
structure or object of natural growth that is an obstruction if 860
any of the following apply: 861

(A) The structure or object of natural growth was 862
installed, erected, constructed, established, or altered without 863
a permit issued under this chapter. 864

(B) A permit was issued under this chapter for the 865
structure or object of natural growth, but the structure or 866
object of natural growth was installed, erected, constructed, 867
established, altered, or allowed to grow in a manner that is not 868
in compliance with the terms and conditions of the permit. 869

(C) The structure or object of natural growth was 870
installed, erected, constructed, established, or altered 871
pursuant to a certificate issued by the power siting board 872
pursuant to section 4906.03 or 4906.10 of the Revised Code. 873

(D) The structure or object of natural growth was 874
installed, erected, constructed, established, or altered 875
pursuant to a permit issued by an airport zoning board pursuant 876
to Chapter 4563. of the Revised Code. 877

Sec. 4561.99. Whoever violates any provision of ~~sections~~ 878
~~4561.021 to 4561.13 of the Revised Code~~ this chapter for which 879
no penalty otherwise is provided in the section that contains 880
the provision violated shall be fined not more than five hundred 881
dollars, imprisoned not more than ninety days, or both. 882

Sec. 4563.01. As used in ~~sections 4563.01 to 4563.21 of~~ 883
~~the Revised Code~~ this chapter: 884

(A) "Airport" means any area of land or water designed and 885
set aside for the landing and taking off of aircraft, and for 886
that purpose possessing one or more hard surfaced runways of a 887
length of not less than ~~three one~~ thousand ~~five eight~~ hundred 888
feet, and designed for the storing, repair, and operation of 889
aircraft, and utilized or to be utilized in the interest of the 890
public for such purposes, and any area of land designed for such 891
purposes for which designs, plans, and specifications conforming 892
to the above requirements have been approved by the office of 893
aviation ~~of the division of multi-modal planning and programs of~~ 894
the department of transportation and for which not less than 895
seventy per cent of the area shown by such designs and plans to 896
constitute the total area has been acquired. An airport is 897
"publicly owned" if the portion thereof used for the landing and 898
taking off of aircraft is owned, operated, leased to, or leased 899
by the United States, any agency or department thereof, this 900
state or any other state, or any political subdivision of this 901
state or any other state, or any other governmental body, public 902
agency, or public corporation, or any combination thereof. 903

(B) "Airport hazard" means any structure or object of 904
natural growth or use of land within an airport hazard area that 905
obstructs the ~~air space~~ airspace required for the flight of 906
aircraft in landing or taking off at any airport or is otherwise 907
hazardous to ~~such landing or taking off of aircraft~~ air 908
navigation. 909

(C) "Airport hazard area" means any area of land adjacent 910
to an airport that has been declared to be an "airport hazard 911
area" ~~by the office of aviation in connection with any airport~~ 912

~~approach plan recommended by the office as depicted on an~~ 913
approved airport approach plan. 914

(D) "Political subdivision" means any municipal 915
corporation, township, or county. 916

(E) "Person" means any individual, firm, 917
~~copartnership~~partnership, corporation, company, association, 918
joint stock association, or body politic and includes any 919
trustee, receiver, assignee, or other similar representative 920
thereof. 921

(F) "Structure" ~~means any erected object, including,~~ 922
~~without limitation, buildings, towers, smokestacks, and overhead~~ 923
~~transmission lines~~has the same meaning as in section 4561.01 of 924
the Revised Code. 925

(G) "Navigable airspace" has the same meaning as in 926
section 4561.01 of the Revised Code. 927

Sec. 4563.03. (A) When an airport is publicly owned and 928
all airport hazard areas appertaining to such airport are 929
located inside the territorial limits of one political 930
subdivision, the legislative authority of the political 931
subdivision shall constitute the airport zoning board. Such 932
legislative authority, acting as the airport zoning board, may 933
adopt, administer, and enforce airport zoning regulations for 934
such airport hazard area. Airport zoning regulations may divide 935
an airport hazard area into zones, and, within such zones, 936
regulate and restrict land uses which by their nature constitute 937
airport hazards, and regulate and restrict the height to which 938
structures may be erected or objects of natural growth may be 939
allowed to grow. ~~An obstruction of air space in an airport~~ 940
~~hazard area rising to a height not in excess of forty feet above~~ 941

~~the established elevation of the airport, or three feet for each~~ 942
~~one hundred feet or fraction thereof its location is distant~~ 943
~~from the nearest point in the perimeter of the airport,~~ 944
~~whichever is greater, shall be prima facie reasonable.~~ 945

(B) When an airport is publicly owned and any airport 946
hazard area appertaining to such airport is located in more than 947
one political subdivision, the board of county commissioners of 948
each county in which such airport or such airport hazard area 949
may exist, shall constitute the airport zoning board, which 950
shall have the same power to adopt, administer, and enforce 951
airport zoning regulations as provided in division (A) of this 952
section. The board shall elect its own ~~chairman~~ chairperson. 953

Sec. 4563.031. Within the approach, transitional, ~~inner~~ 954
horizontal, and conical areas at a publicly owned airport, an 955
airport zoning board constituted under section 4563.03 of the 956
Revised Code may adopt, administer, and enforce zoning 957
regulations, in addition to its regulations adopted under 958
section 4563.03 of the Revised Code, in order to ensure the 959
safety of the navigable airspace, persons occupying or using 960
such areas, and the security of property located within such 961
areas. Airport zoning regulations may divide such approach, 962
transitional, ~~inner~~ horizontal, and conical areas into zones, 963
and within such zones, regulate and restrict land use in order 964
to minimize injury, loss of life, and hazards to the safety of 965
persons or to the security of property within such zones, and 966
may include regulations governing population density and 967
concentration of persons within such zones. 968

Prior to initial zoning under this section, the procedures 969
set forth in sections 4563.05, 4563.06, and 4563.08 of the 970
Revised Code for establishing the boundaries of the various 971

zones and adopting the regulations therefor, shall be followed. 972
"Approach area," "transitional area," "~~inner~~-horizontal area," 973
or "conical area," respectively, means any area of land adjacent 974
to an airport and within an airport hazard area, which has been 975
declared to be an "approach area," "transitional area," "~~inner~~- 976
horizontal area," or "conical area" by the office of aviation, 977
based upon the approach plan for the airport. No zone 978
established under this section may include any area outside such 979
approach, transitional, ~~inner~~-horizontal, and conical areas. 980

Sec. 4563.032. Any airport zoning board that adopts, 981
administers, and enforces airport zoning regulations for an 982
airport hazard area under section 4563.03 of the Revised Code 983
shall adopt, as minimum regulations, the rules adopted by the 984
department of transportation under section 4561.32 of the 985
Revised Code ~~that are based in whole upon the obstruction-~~ 986
~~standards set forth in 14 C.F.R. 77.21 to 77.29, as amended, in~~ 987
order to uniformly regulate the height and location of 988
structures and objects of natural growth ~~in any airport's clear-~~ 989
~~zone surface, horizontal surface, conical surface, primary-~~ 990
~~surface, approach surface, or transitional surface~~pursuant to 991
section 4563.031 of the Revised Code. 992

Sec. 4563.04. In the event of conflict between any airport 993
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 994
~~inclusive, of the Revised Code~~this chapter, and any other zoning 995
regulations applicable to the same area, whether the conflict be 996
with respect to the height of structures or objects of natural 997
growth, the use of land, or any other matter, and whether such 998
other regulations were adopted by the political subdivision 999
which adopted the airport zoning regulations or by some other 1000
political subdivision, the limitation or requirement best 1001
calculated to ~~insure~~ensure safety shall govern. 1002

Sec. 4563.05. Prior to initial zoning of any airport 1003
hazard area under ~~sections 4563.01 to 4563.21, inclusive, of the~~ 1004
~~Revised Code~~this chapter, the airport zoning board which is to 1005
adopt the regulations shall appoint a commission, to be known as 1006
the airport zoning commission, to recommend the boundaries of 1007
the various zones to be established and the regulations to be 1008
adopted therefor. Such commission shall make a preliminary 1009
report and hold public hearings thereon before submitting its 1010
final report, and the airport zoning board shall not hold its 1011
public hearings or take other action until it has received the 1012
final report of such commission. Where a city planning 1013
commission, township zoning commission, or county rural zoning 1014
commission already exists, it may be appointed as the airport 1015
zoning commission. 1016

Sec. 4563.06. No airport zoning regulations shall be 1017
adopted, amended, or changed under ~~sections 4563.01 to 4563.21,~~ 1018
~~inclusive, of the Revised Code~~this chapter, except by action of 1019
the legislative body of the political subdivision, after a 1020
public hearing in relation thereto, at which parties in interest 1021
and citizens shall have an opportunity to be heard. At least 1022
thirty days notice of the hearing shall be published in a 1023
newspaper of general circulation in the political subdivision in 1024
which the airport hazard area to be zoned is located. 1025

Sec. 4563.07. All airport zoning regulations adopted under 1026
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~this 1027
chapter shall be reasonable, and none shall impose any 1028
requirement or restriction which is not reasonably necessary to 1029
~~insure~~ensure the safety of aircraft in landing and taking off- 1030
~~and air navigation,~~ the safety of persons occupying or using the 1031
area, and the security of property thereon. In determining what 1032
regulations are necessary, each political subdivision or airport 1033

zoning board shall consider, among other things, the character 1034
of the flying operations expected to be conducted at the 1035
airport, the per cent of slope or grade customarily used in 1036
descent or ascent of the aircraft expected to use the airport 1037
with reference to their size, speed, and type, the nature of the 1038
terrain within the airport hazard area, the character of the 1039
neighborhood, and the uses to which the property to be zoned is 1040
put or is adaptable. 1041

Sec. 4563.08. In order to define and determine the airport 1042
hazard area in which airport zoning shall be applicable, the 1043
office of aviation, upon request of any airport zoning 1044
commission appointed pursuant to section 4563.05 of the Revised 1045
Code, shall ~~formulate and adopt, and may revise when~~ 1046
~~necessary, review and approve~~ an airport approach plan for any 1047
airport within its jurisdiction. ~~Each~~ The airport zoning 1048
commission shall develop the plan. The plan shall indicate the 1049
airport hazard area, the circumstances under which structures, 1050
objects of natural growth, public highways, and certain uses of 1051
land would be airport hazards, and the height limits of 1052
structures and objects of natural growth, and what other 1053
restrictions should be contained in the airport zoning 1054
regulations. In ~~adopting or revising~~ developing the plan, the 1055
~~office~~ airport zoning commission shall consider, among other 1056
things, the size, type, and speed of aircraft expected to use 1057
the airport, the character of the flying operations expected to 1058
be conducted at the airport, the traffic pattern and regulations 1059
affecting flying operations at the airport, the location of 1060
public highways, the nature of the terrain, the height of 1061
existing structures and objects of natural growth above the 1062
level of the airport, and the possibility of lowering or 1063
removing existing obstructions. The ~~office~~ airport zoning 1064

commission may obtain and consider information from and the 1065
opinion of any agency of the federal government charged with the 1066
promotion, regulation, or control of civil aeronautics as to the 1067
approaches necessary to safe flying operations at the airport. 1068

Sec. 4563.09. No airport zoning regulations adopted under 1069
~~sections 4563.01 to 4563.21 of the Revised Code~~ this chapter 1070
shall require the removal, lowering, or other change or 1071
alteration of any structure or object of natural growth not 1072
conforming to the regulations ~~when adopted or amended~~ on or 1073
before January 1, 2004, or otherwise interfere with the 1074
continuance of any nonconforming use, except as provided in 1075
section 4563.14 of the Revised Code. 1076

Sec. 4563.10. Nothing in ~~sections 4563.01 to 4563.21 of~~ 1077
~~the Revised Code~~, this chapter shall confer any power on any 1078
political subdivision or airport zoning board to prohibit the 1079
use of any land for farming, dairying, pasturage, apiculture, 1080
horticulture, floriculture, viticulture, or animal and poultry 1081
husbandry, except where such use shall create an airport hazard. 1082
The provisions of ~~sections 4563.01 to 4563.21 of the Revised~~ 1083
~~Code~~ this chapter shall not apply in respect to the location, 1084
relocation, erection, construction, reconstruction, change, 1085
alteration, maintenance, removal, use, or enlargement of any 1086
buildings or structures, now existing or constructed in the 1087
future, of any public utility or railroad. 1088

Sec. 4563.11. All airport zoning regulations adopted under 1089
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code~~, this 1090
chapter shall provide for the administration and enforcement of 1091
such regulations. The duties of any administrative agency 1092
designated pursuant to ~~sections 4563.01 to 4563.21, inclusive,~~ 1093
~~of the Revised Code~~, this chapter shall include that of issuing 1094

all permits under section 4563.12 of the Revised Code. 1095

Sec. 4563.12. Airport zoning regulations adopted under 1096
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this 1097
chapter may require that a permit be obtained before any new 1098
structure or use may be constructed or established and before 1099
any existing structure or use may be substantially changed or 1100
substantially altered in an airport hazard area. No permit shall 1101
be granted that would allow the establishment or creation of an 1102
airport hazard, or permit a nonconforming structure to be made 1103
higher or a nonconforming object of natural growth to become 1104
higher or become a greater hazard to air navigation than it was 1105
when the applicable regulations were adopted or than it is when 1106
the application for a permit is made. If any nonconforming use 1107
is voluntarily discontinued for two years or more, any future 1108
use of the premises shall be in conformity with ~~sections 4563.01~~ 1109
~~to 4563.21, inclusive, of the Revised Code~~this chapter. 1110

Sec. 4563.13. All airport zoning regulations adopted under 1111
~~sections 4563.01 to 4563.21, inclusive, of the Revised Code,~~this 1112
chapter shall provide for an airport zoning board of appeals. 1113
Where a zoning board of appeals already exists, it may be 1114
designated as the airport zoning board of appeals. The airport 1115
zoning board of appeals, except in those instances in which an 1116
existing zoning board of appeals is designated as the airport 1117
zoning board of appeals, shall consist of five members, each to 1118
be appointed for a term of three years by the authority adopting 1119
the regulations and subject to removal by the appointing 1120
authority for cause upon written charges and after public 1121
hearing. The first members of such board of appeals shall be so 1122
designated that two shall serve for one year, two shall serve 1123
for two years, and one shall serve for three years. 1124

Sec. 4563.16. Any person desiring to erect any structure, 1125
or increase the height of any structure, or permit the increases 1126
in height of any object of natural growth, or otherwise use ~~his~~ 1127
the person's property in any manner in conflict with airport 1128
zoning regulations adopted under ~~sections 4563.01 to 4563.21,~~ 1129
~~inclusive, of the Revised Code~~this chapter, may apply to the 1130
airport zoning board of appeals for a variance from the zoning 1131
regulations in question. Such variance shall be allowed where a 1132
literal application or enforcement of the regulations would 1133
result in unnecessary hardship and the relief granted would not 1134
be contrary to the public interest or create conditions 1135
dangerous to the safety of aircraft using the airport or the 1136
navigable airspace of an airport, but would do substantial 1137
justice and would not be in conflict with factors set down for 1138
consideration in ~~sections 4563.07 and 4563.08 of the Revised~~ 1139
~~Code~~this chapter. The board of appeals may subject any variance 1140
to any reasonable conditions that ~~they deem~~ it considers 1141
necessary. 1142

Sec. 4563.18. (A) ~~Any person aggrieved by any~~ Either of 1143
the following may appeal a decision of an administrative agency 1144
made in its administration of airport zoning regulations adopted 1145
under ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1146
~~Code, or any~~ this chapter: 1147

(1) Any person aggrieved by the decision; 1148

(2) Any governing body of a political subdivision or any 1149
airport zoning board ~~which is of the opinion that a~~ that 1150
considers the administrative agency's decision of such an 1151
~~administrative agency is an improper application of airport~~ 1152
~~zoning regulations of concern to such governing body or board,~~ 1153
may. 1154

The appeal shall be made to the airport zoning board of 1155
appeals authorized to hear and decide appeals from the decisions 1156
of ~~such the~~ administrative agency. 1157

(B) All appeals taken under this section shall be taken 1158
within twenty days after an order is filed in the office of the 1159
administrative agency, as provided by the rules of the airport 1160
zoning board of appeals, by filing ~~with the administrative~~ 1161
~~agency from which the appeal is taken and with the airport~~ 1162
~~zoning board of appeals~~ a notice of appeal specifying the 1163
grounds of such appeal. The notice of appeal shall be filed with 1164
the administrative agency from which the appeal is taken and 1165
with the airport zoning board of appeals. The administrative 1166
agency from which the appeal is taken shall transmit to the 1167
airport zoning board of appeals all the papers constituting the 1168
record upon which the action appealed from was taken. 1169

(C) An appeal shall stay all proceedings in furtherance of 1170
the action appealed from unless the administrative agency from 1171
which the appeal is taken certifies to the airport zoning board 1172
of appeals, after the notice of appeal has been filed with it, 1173
that by reason of the facts stated in the certificate a stay 1174
would, in its opinion, cause imminent peril to life or property. 1175
In such cases proceedings shall not be stayed other than by 1176
order of the airport zoning board of appeals on notice of the 1177
agency from which the appeal is taken and on due notice to the 1178
parties in interest. 1179

(D) The airport zoning board of appeals shall fix a 1180
reasonable time for the hearing of appeals, give public notice 1181
and due notice to the parties in interest, and decide the same 1182
within a reasonable time. Upon the hearing any party may appear 1183
in person, by agent, or by attorney. 1184

(E) The airport zoning board of appeals, in conformity 1185
with ~~sections 4563.01 to 4563.21, inclusive, of the Revised~~ 1186
~~Code~~this chapter, may reverse, affirm wholly or partly, or 1187
modify, the order, requirement, decision, or determination 1188
appealed from. 1189

Sec. 4563.20. (A) No person shall violate any regulation, 1190
order, or ruling promulgated or made pursuant to ~~sections~~ 1191
~~4563.01 to 4563.21 of the Revised Code~~this chapter. 1192

(B) Whoever violates this section shall be fined not more 1193
than one hundred dollars. Each day's willful continuation of the 1194
violation is a separate offense. 1195

Sec. 4563.21. The political subdivision or airport zoning 1196
board adopting zoning regulations under ~~sections 4563.01 to~~ 1197
~~4563.21, inclusive, of the Revised Code,~~this chapter may 1198
institute in any court of competent jurisdiction an action to 1199
prevent, restrain, correct, or abate any violation of ~~sections~~ 1200
~~4563.01 to 4563.21, inclusive, of the Revised Code~~this chapter, 1201
or of airport zoning regulations adopted under ~~such sections~~it, 1202
or of any order or ruling made in connection with the 1203
administration or enforcement. The court shall adjudge to the 1204
plaintiff such relief, by way of injunction, which may be 1205
mandatory, or otherwise, as may be proper under all the facts of 1206
and circumstances of the case, in order fully to effectuate the 1207
purposes of ~~sections 4563.01 to 4563.21, inclusive, of the~~ 1208
~~Revised Code,~~this chapter and of the regulations adopted and 1209
orders and rulings made pursuant thereto. 1210

Section 2. That existing sections 4561.01, 4561.021, 1211
4561.05, 4561.06, 4561.08, 4561.09, 4561.11, 4561.12, 4561.14, 1212
4561.15, 4561.31, 4561.32, 4561.33, 4561.34, 4561.341, 4561.35, 1213
4561.36, 4561.37, 4561.38, 4561.39, 4561.99, 4563.01, 4563.03, 1214

4563.031, 4563.032, 4563.04, 4563.05, 4563.06, 4563.07, 4563.08, 1215
4563.09, 4563.10, 4563.11, 4563.12, 4563.13, 4563.16, 4563.18, 1216
4563.20, and 4563.21 of the Revised Code are hereby repealed. 1217

Section 3. That section 4561.30 of the Revised Code is 1218
hereby repealed. 1219